

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BOBBY DARRELL COLBERT,

Petitioner,

v.

JASON BENNETT,

Respondent.

CASE NO. 2:24-cv-00889-LK

ORDER DENYING MOTION FOR RELIEF
FROM JUDGMENT

This matter comes before the Court on Petitioner Bobby Darrell Colbert's Motion for Relief from Judgment. Dkt. No. 13. For the reasons explained below, the Court DENIES the motion.

On August 12, 2024, the Court dismissed Mr. Colbert's federal habeas petition without prejudice in its order adopting the Report and Recommendation of U.S. Magistrate Judge S. Kate Vaughan. Dkt. No. 11. The Court agreed with Judge Vaughan that Mr. Colbert's petition should be dismissed without prejudice because it is a successive petition over which this Court lacks jurisdiction. *Id.* at 1. The Court entered judgment the same day. Dkt. No. 12.

Mr. Colbert now moves for relief under Federal Rule of Civil Procedure 60(b)(4), which allows the Court to grant relief from a final judgment if "the judgment is void." Dkt. No. 13. Mr.

Colbert argues that the judgment is void because although he “sought relief under 28 [U.S.C.] § 2241,” the Court “recharacterized his pro se petition as a 28 [U.S.C.] § 2254 petition subjecting him to the restrictions of 28 [U.S.C.] § 2244(b).” *Id.* at 2.

The Court finds this argument to be meritless. Because Mr. Colbert is in custody pursuant to a state court judgment, the Court was required to construe his habeas petition as one filed under 28 U.S.C. § 2254. “Because § 2254 limits the general grant of habeas relief under § 2241, it ‘is the exclusive vehicle for a habeas petition by a state prisoner in custody pursuant to a state court judgment, even when the petitioner is not challenging his underlying state court conviction.’” *Dominguez v. Kernan*, 906 F.3d 1127, 1135 (9th Cir. 2018) (quoting *White v. Lambert*, 370 F.3d 1002, 1009–10 (9th Cir. 2004)).

The Court therefore DENIES Mr. Colbert’s Motion for Relief from Judgment. Dkt. No. 13.

Dated this 15th day of October, 2024.



Lauren King
United States District Judge